

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JESSE ROSEN,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
HEALTH AND HOSPITALS CORPORATION, PRISON
HEALTH SERVICES, INC., MARTIN F. HORN,
Commissioner of the New York City Department of
Correction, OFFICER JOHN DOE, said name being
fictitious, being intended to designate the City of New
York Correction Officer designated herein, OFFICER
RICHARD ROE, said name being fictitious, being
intended to designate the City of New York Correction
Officer involved in the action herein, and JOHN DOE,
M.D., said name being fictitious, being intended to
designate the physician involved in the action herein,

Defendants,

**DECLARATION OF
JORDAN M. SMITH IN
FURTHER SUPPORT OF
NOTICE OF REMOVAL**

07 Civ. 6721 (U.S. District Court
for S.D.N.Y.)

Index No. 16753/07 (Supreme
Court of the State of New York,
Bronx County)

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JORDAN M. SMITH, declares pursuant to 28 U.S.C. § 1746, under penalty of
perjury, that the following is true and correct.

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants City of New York, New York City Health and Hospital Corporation (HHC), Martin F. Horn and Prison Health Services, Inc (PHS). As such, I am familiar with the facts stated below and submit this declaration in further support of defendants' Notice of Removal dated July 26, 2007.

2. On July 26, 2007, the Notice of Removal was filed on behalf of petitioners City of New York, HHC and Martin F. Horn, all of whom are represented by the Corporation Counsel of the City of New York.

3. Petitioners' Notice of Removal seeks remove Jesse Rosen v. City of New York, et al., Index No. 16753/07 (Supreme Court of the State of New York, Bronx County) to this District Court.

4. In paragraph 14 of the Notice of Removal dated July 26, 2007, petitioners represented that they were the only defendants in the state court action who had been served with a summons and complaint.

5. In paragraph 14 of the Notice of Removal dated July 26, 2007, petitioners noted the possibility that, once served, PHS might be represented by the Office of the Corporation Counsel of the City of New York

6. In paragraph 16 of the Notice of Removal dated July 26, 2007, petitioners stated that should any other defendants be served with a summons and complaint, they would "make an effort to obtain their proper consent to remove this action to federal court during the pending disposition of this petition."

7. After filing of the Notice of Removal on July 26, 2007, the undersigned was informed that, on or about July 19, 2007, PHS had been served with a summons and complaint in Jesse Rosen v. City of New York, et al., Index No. 16753/07 (Supreme Court of the State of New York, Bronx County).

8. PHS has requested representation in this matter by the Office of the Corporation Counsel of the City of New York, pursuant to agreement between it and the City of New York.

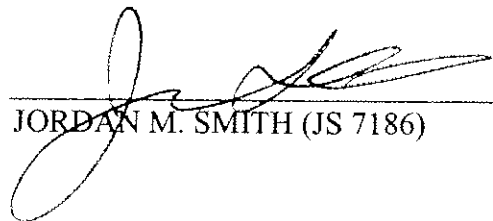
9. The Office of the Corporation Counsel of the City of New York has approved PHS's request. Accordingly, earlier today, the undersigned filed a Notice of Appearance on its behalf in this action, as well as the state court action and the related federal action, Jesse Rosen v. City of New York, et al., 07 Civ. 6018 (VM) pending before The Honorable Victor Marrero, United States District Judge.

10. PHS joins with the other petitioners in requesting removal of Jesse Rosen v. City of New York, et al., Index No. 16753/07 (Supreme Court of the State of New York, Bronx County) to this District Court. Because PHS joins in the petition for removal of the state court action, the defendants are unanimous in seeking such relief.

Dated: New York, New York
August 6, 2007

MICHAEL A. CARDOZO
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City of New York
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(212) 788-0869

BY:


JORDAN M. SMITH (JS 7186)